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UNITED STATES PATENT AND TRADEMARK OFFICE

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A. Bruce Clay
IBM Corporation T81/062
P.O. Box 12195
Research Triangle Park, NC 27709

EXAMINER
DURAN, ARTHUR D

. ART UNIT	PAPER NUMBER
3622	

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _29 June 2005_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-55_ is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-55_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-55 have been examined.

Response to Amendment

2.   The Amendment filed on 6/29/05 is insufficient to overcome the Gerace and Culliss

reference.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

3.   Claims 1-9, 11-21, 23-33, 35-47, 49-55 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Gerace (5,848,396) in view of Culliss (6,078,916).

Claim 1, 13, 25, 39: Gerace discloses a system, method, medium, software product for

presenting marketing content on a web page, the system comprising:

(a)   a marketing page element, said marketing page element providing storage for data items

(Fig. 2; Fig. 3a);

(b)   a web page connected to said marketing page element for presenting said data items (Fig.

2; Fig. 3a); and

(c)   a marketing content selection system connected to said marketing page element, wherein

said marketing content selection system is adapted to select said data items to be stored in said

marketing page element (Fig. 2; Fig. 3a; col 5, lines 54-63; col 7, lines 24-37; col 5, lines 40-53;

Fig. 4a; col 4, lines 23-29; col 16, lines 41-47; col 17, lines 1-5; col 4, lines 39-45; col 16, lines 55-67).

Additionally, Gerace discloses a marketing page element placed on the web page and that these components are for placing on a web page (col 1, lines 30-45; col 1, lines 60-65; col 6, lines 45-52; col 17, lines 60-67; col 20, lines 10-20; col 16, lines 36-55; col 14, lines 25-35; col 2, lines 24-30; col 4, lines 25-30;).

Gerace discloses design of a webpage and marketing strategy for determining marketing content (col 5, lines 19-24; col 20, lines 10-20; col 12, lines 21-56; col 18, lines 10-26).

Gerace discloses taking the information currently displayed on the web page into account (col 16, lines 36-55; col 14, lines 25-35; col 10, line 64-col 11, line 5).

Additionally, Gerace discloses advertisements placed in a variety of locations including top, bottom, sides, beginning and end as disclosed above and in the Applicant's Amendment dated 2/22/05 on page 19.

Also, Gerace discloses that advertisements can be a form of agate information:

"(18) In accordance with another aspect of the present invention, there are Agate Objects for providing the agate information and a Sponsor Object. In a preferred embodiment, the agate information includes stock information, advertisements, sports statistics, weather reports and the like. With regard to stock information, an Agate Object routine receives stock data on line, parses the data and makes a value-added calculation. As a result, the stock information is made searchable by variables such as price-earnings ratio, and the like" (col 2, line 60-col 3, line 5).

Therefore, the functionality in Gerace concerning agata data can also apply to advertising

data.

Also, Gerace discloses that agate information can be placed anywhere on the web page:

"(19) Display preferences include orientation, color scheme, screen quadrant/location and

the like, indicated with respect to the category of information (col 6, lines 30-35);

(48) Also, categories that a user selects to view further which are not on his Home Page

are added with three options: customize, remove from first page, or move to a user-specified

xyz position" (col 11, lines 50-56).

Therefore, it would be obvious to Gerace that a marketing page element can be placed

anywhere on the webpage.

As a further example of this, Culliss discloses that a marketing page element can be

placed anywhere on the webpage:

"(69) In this manner, the purchase of an advertising banner, positioned anywhere on a

web site or search page, will allow users to. . . and/or categories for the matched article which is

associated (in any possible way) with the advertising banner" (col 17, line 65-col 18, line 3).

Therefore, it would have been obvious to one having ordinary skill in the art at the time

the invention was made that Gerace's advertisements can be placed anywhere on the webpage.

One would have been motivated to do this in order to provide further flexibility in the placement

of the advertisement in a place of interest to the user.

Also, Gerace's that advertisements can be for a marketed item:

"(15) In accordance with another aspect of the present invention, there is a module (e.g.,

advertisement module) that records history of users viewing the advertisements. For each

advertisement, the module records (i) number of times viewed by a user; (ii) number of times

selected for further information by a user, and/or (iii) number of purchases initiated from

display of the advertisement to a user" (col 2, lines 35-42).

An advertisement that results in a purchase is equivalent to presenting data items related

to to a marketed item such as a product or coupon.

Gerace discloses utilizing a marketing strategy for selecting the marketed item that is

displayed on a web page:

"(82) Based on these recorded details, program 31 constantly and automatically tailors

screen views (content and presentation) and advertisement selection (subject matter and

presentation) for the user (col 17, lines 4-10);

(14)   The tracking and profiling member also records demographics of each

user. As a result, the data assembly is able to transmit advertisements for display to users based

on psychographic and demographic profiles of the user to provide targeted marketing (col 2,

lines 30-35);

(90) For example, a report comprises several defined elements, including overall success

of the advertisement, breakdown by requested demographic elements, comparison of target

market with control group, number of click through requested versus number achieved to date,

as well as the time remaining in an advertisement. Finally, program 31 completes a regression

analysis using data stored in Ad Package Objects 33b and User Objects 37, and suggests other

demographic groups which a sponsor might want to consider for a subsequent ad (col 18, line

64-col 19, line 6);

(97)   In order to achieve rapid and direct benefits from the detailed reporting of program 31, program 31 allows the sponsor to enter new advertising contracts on line. If a sponsor recognizes that, for example, 25-35 year-old women tend to purchase frequently and respond to their still, forest green colored advertisements most often, program 31 allows sponsors to place that type of ad in front of the subject target market segment during a reporting cycle. Thus, program 31 enables updating of the Sponsor and Ad Objects 33 during a reporting cycle to accommodate the foregoing (col 20, lines 9-19);

[Claim] 6. Apparatus as claimed in claim 5 wherein the tracking and profiling member further provides demographic information about a user; and for each advertisement, the data assembly transmits the advertisement for display with agate information to users having a psychographic profile and a demographic profile substantially matching the target profile of the advertisement to provide targeted marketing (col 35, lines 14-20);

(98)   With respect to reporting, if the reports of program 31 show that customers respond to still advertisements more often than moving ones, bright colors more often than darker ones, ·
graphics rather than text, large text rather than small, detailed text or square advertisements rather than bar style ones, such is relayed to the sponsors/advertisers (col 20, lines 10-25).

(55)   Briefly, an Overview Report provides a review by ad package. The number of hits and number of click throughs purchased and achieved are indicated among the cost of the package and date specified by the ad package" (col 12, lines 62-69).

Hence, Gerace discloses that advertisements can be displayed to users, that advertisements can be utilized to incite purchases from users. Gerace further discloses that certain advertisements can be targeted to certain markets or groups of users and that certain

advertisements can be displayed to users in certain ways in order to illicit more favorable

responses, such as purchases, from a user. Therefore, Gerace discloses utilizing a marketing

strategy for selecting the marketed item that is displayed on a web page.

Claim 2, 14, 26, 40: Gerace and Culliss disclose the system, method, medium, software

product for presenting marketing content on a web page as claimed in claim 1, 13, 25, 39, and

Gerace further discloses that said marketing page element comprises a plurality of marketing

page element items, and wherein at least one data item stored in said marketing page element is

connected to one of said plurality of marketing page element items (Fig. 4a; col 4, lines 23-29;

col 16, lines 41-47; col 17, lines 1-5; col 16, lines 24-29).

Claim 3, 15, 27, 41: Gerace and Culliss disclose the system, method, medium, software

product for presenting marketing content on a web page as claimed in claim 2, 14, 26, 40, and

Gerace further discloses that said web page comprises a plurality of web page elements, wherein

each of said web page elements is connected to a marketing page element item of said plurality

of marketing page element items, and wherein each of said web page elements is used to present

a data item connected to said marketing page element item (Fig. 3a; col 5, lines 54-63; col 7,

lines 24-37).

Claim 4, 16, 28, 42: Gerace and Culliss disclose the system, method, medium, software

product for presenting marketing content on a web page as claimed in claim 1, 13, 25, 39, and

Gerace further discloses that said marketing content selection system is adapted to determine

data items for storage in said marketing page element in accordance with a marketing strategy

(col 12, lines 21-42; col 13, lines 10-20).

Additionally, Gerace discloses utilizing if-then logic related to a marketing strategy:

"(97) If a sponsor recognizes that, for example, 25-35 year-old women tend to purchase frequently and respond to their still, forest green colored advertisements most often, program 31 allows sponsors to place that type of ad in front of the subject target market segment during a reporting cycle. Thus, program 31 enables updating of the Sponsor and Ad Objects 33 during a reporting cycle to accommodate the foregoing.

(98)   With respect to reporting, if the reports of program 31 show that customers respond to still advertisements more often than moving ones, bright colors more often than darker ones, graphics rather than text, large text rather than small, detailed text or square advertisements rather than bar style ones, such is relayed to the sponsors/advertisers" (col 20, lines 10-25).

Also, note that the targeted marketing features, including targeting both advertising content and advertising format to certain target user(s), disclosed in the rejection of the independent claim above and in the immediate citations above constitute utilizing a marketing strategy and a business rule. For example, the business rule would be something like if a target age group can be identified that responds to certain advertisements more favorably, than market that age group with that type of advertisement.

Claim 5, 17, 29, 43: Gerace and Culliss disclose the system, method, medium, software product for presenting marketing content on a web page as claimed in claim 4, 16, 28, 42, and Gerace further discloses that the marketing content selection system determines data items to be stored in said marketing page element based on information available to said marketing content selection system pertaining to the person viewing the web page (Fig. 3b; col 4, lines 20-35).

Additionally, Gerace further discloses taking the information currently displayed on the web page into account (col 16, lines 36-55; col 14, lines 25-35; col 10, line 64-col 11, line 5).

Gerace further discloses determining marketing content based on a combination of information displayed on the webpage and information available pertaining to the person viewing the web page (col 16, lines 36-55; col 14, lines 25-35; col 10, line 64-col 11, line 5; col 2, lines 30-35).

Claim 6, 18, 30, 44: Gerace and Culliss disclose the system, method, medium, software product for presenting marketing content on a web page as claimed in claim 1, 13, 25, 39, and Gerace further discloses a marketing content retrieval system connected to said marketing page element, said marketing content retrieval system adapted to provide said data items to said marketing page element for storage in said marketing page element (Fig. 2; Fig. 3a; col 5, lines 54-63; col 7, lines 24-37).

Claim 7, 19, 31, 45: Gerace and Culliss disclose the system, method, medium, software product for presenting marketing content on a web page as claimed in claim 6, 18, 30, 44, and Gerace further discloses that the marketing content retrieval system comprises a first source of data items, wherein data items are retrieved from said first source of data items for subsequent storage in said marketing page element, said first source of data items comprising at least one of the following: a database, a data stream, a storage device, a memory device (Fig. 2; Fig. 3a; col 3, lines 54-62; col 3, lines 39-42).

Claim 8, 20, 32, 46: Gerace and Culliss disclose the system, method, medium, software product for presenting marketing content on a web page as claimed in claim 7, 19, 31, 45, and Gerace further discloses that each data item in said first source of data items comprises one of the following: text, an image, an audio file, a video file, a movie, a document, a hyperlink, an

animation, an object capable of accepting input, an object capable of presenting output (col 1, lines 31-44).

Claim 9, 21, 33, 47: Gerace and Culliss disclose the system, method, medium, software product for presenting marketing content on a web page as claimed in claim 8, 20, 32, 46, and Gerace further discloses that the marketing content retrieval system is further adapted to provide at least one data item to said marketing page element from a pre-determined second source of data items in the event that at least one data item to be stored in said marketing page element as determined by the marketing content selection system cannot be retrieved from the first source of data items (col 16, lines 55-67;).

Claim 11, 23, 35, 49: Gerace and Culliss disclose the system, method, medium, software product for presenting marketing content on a web page as claimed in claim 1, 13, 25, 39, and Gerace further discloses that the marketing content selection system comprises at least one of the following components: a rules processing engine, a table, a collaborative filtering engine, a selection program (col 16, lines 37-48; col 3, lines 56-61).

Claim 12, 24, 36, 50: Gerace and Culliss disclose the system, method, medium, software product for presenting marketing content on a web page as claimed in claim 3, 15, 27, 41. Gerace further discloses at least one of the following:

(i)   a first set of tools for making modifications to the manner in which the marketing content selection system determines the data items to be stored in said marketing page element, wherein the modifications can be effected without changing either the layout of said web page elements on said web page or said data items (col 11, lines 24-36; col 11, lines 45-56);

(ii)   a second set of tools for making modifications to said data items, wherein the

modifications can be effected without changing either the layout of said web page elements on

said web page or the manner in which the marketing content selection system determines the

data items to be stored in said marketing page element (col 11, lines 50-55; col 20, lines 13-15;

col 6, lines 31-35); and

(iii)   a third set of tools for making modifications to the layout of said web page elements on

said web page, wherein the modifications can be effected without changing either said data items

or the manner in which the marketing content selection system determines the data items to be

stored in said marketing page element (col 6, lines 31-40; col 17, lines 1-5).

Claim 37: Gerace and Culliss disclose the above. Gerace further discloses a computer

program comprising computer program code means adapted to perform all the steps of claim 13

when said program is run on a computer (Fig. 1; col 3, lines 50-62).

Claim 38: Gerace and Culliss disclose a computer program as claimed in claim 37,

Gerace further discloses that embodied on a computer readable medium (col 3, lines 55-62).

Claim 51: Gerace and Culliss disclose a computer program product comprising: Gerace

further discloses that a computer-readable signal-bearing medium (col 16, lines 55-60; col 36,

lines 49-58; col 3, lines 45-62); means in said medium for accomplishing the method of any of

claims 13 to 24.

Claim 52: Gerace and Culliss disclose the product of claim 51, Gerace further discloses

that said medium is a recordable data storage medium (col 3, lines 55-62).

Claim 53: Gerace and Culliss disclose the product of claim 51.

Gerace does not explicitly disclose that said medium is a modulated carrier signal.

However, Gerace discloses the utilization of networks, the Internet, transmissions, satellite, radio, and FM radio (col 16, lines 55-60; col 36, lines 49-58; col 3, lines 45-62) and the display of information along with radio or television transmissions (col 36, lines 49-58).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Gerace's utilization of satellite and radio to Gerace's utilization of networks. One would have been motivated to do this in order to provide the flexibility of a wireless manner of data transmission.

Claim 54: Gerace and Culliss disclose the product of claim 53, Gerace further discloses that said signal is a transmission over a network (Fig. 1; col 3, lines 50-54).

Claim 55: Gerace and Culliss disclose the product of claim 54, Gerace further discloses that said network is the Internet (Fig. 1; col 3, lines 50-54).

4.   Claims 10, 22, 34, 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerace (5,848,396) in view of Culliss (6,078,916) and in further view of Petty (6,342,907).

Claim 10, 22, 34, 48: Gerace and Culliss disclose the system, method, medium, software product for presenting marketing content on a web page as claimed in claim 1, 13, 25, 39.

Gerace further discloses the utilization of Java and other formats (col 13, lines 51-55) and the utilization of web pages and servers (col 3, lines 54-58; col 1, lines 29-45).

Gerace does not explicitly disclose the utilization of Data Bean or a Java Server Page.

However, Petty implies the utilization of Java Server Pages and discloses the utilization of Data Bean (col 5, lines 20-25; col 9, line 65-col 10, line 3).

Therefore, it would have been obvious to one having ordinary skill in the art at the time

the invention was made to add Java Server Pages and Petty's Data Beans to Gerace's utilization

of Java, servers, the Internet, and webpages. One would have been motivated to do this in order

to provide greater architecture flexibility and platform independence.

Response to Arguments

5.   Applicant's arguments with respect to claims 1-55 have been considered but are not found

persuasive.

Examiner notes that while specific references were made to the prior art, it is actually

also the prior art in its entirety and the combination of the prior art in its entirety that is being

referred to. Also, in response to applicant's arguments against the references individually, one

cannot show nonobviousness by attacking references individually where the rejections are based

on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In*

re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Examiner notes that a 35 USC

103 rejection was made utilizing the combination of Gerace and Culliss and that it is the

combination of Gerace and Culliss that renders the features of the Applicant's claims obvious.

Beginning on page 18 of the Applicant's Amendment dated 6/29/05, Applicant states,

"Applicants submit that Gerace fails to teach a marketing page element placed on the web

page, the marketing page element providing storage for data items having marketing content for

a marketed item, wherein the data items are for displaying on the web page. . .Gerace does not

teach that the information is stored in a discrete element of the web page that is placed on the

web page, that the information includes data items to be displayed on the web page, or that the

data items have marketing content."

Examiner further notes that it is the Applicant's claims as stated in the Applicant's claims

that are being rejected with the prior art. Also, although the claims are interpreted in light of the

specification, limitations from the specification are not read into the claims. See *In re Van*

Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). And, Examiner notes that claims are

given their broadest reasonable construction. See *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664

(Fed. Cir. 2000).

Also, on page 19, Applicant admits that Gerace discloses the following,

"The Office yet still further cites a passage in Gerace that teaches, in response to a

request from a user, assembling data from a pertinent agate source, formatting the data into

tables, returning it to the server, and displaying appropriate advertisements. Col. 16, lines 45-

52."

Displaying appropriate advertisements on a web page is equivalent to displaying data

items on a web page that have marketing content. Also, Examiner notes that the terms 'discrete

element' do not appear in the Applicant's independent claim 1. Also, Examiner notes that

Gerace's Fig. 2 and Fig. 3a disclose a marketing page element that is placed on the web page, the

marketing page element providing storage for data items.

Gerace's Ad Module of Fig. 2 provides storage for data items having marketing content,

wherein the data items are for displaying on the web page (Fig. 2 and below):

"(13)   With respect to the advertisement module 75, program controller 79 obtains

sponsor submitted advertisements from module 75 and generates a screen view formatted

according to user preferences as determined from the psychographic profile in the user profiling

member 73. That is, program controller 79 enables display of advertisements customized to the

user, as to content and presentation . . . Program controller 79 obtains the content from the

advertisement module 75. . ." (col 5, lines 15-25).

Also, in Gerace's Fig. 2 and Fig. 3a, Gerace discloses that Ads that include data items are

selected to be placed into a Page Display where the Page Display has certain areas designated for

displaying marketing content and Gerace discloses that the content (advertising and non-

advertising) can be considered as items:

"(28) In each of the foregoing formats, the preferred embodiment includes incorporation

of ads or sponsorship indications as top and/or closing banners (col 8, lines 12-15);

(24) Returning to FIG. 3a, the set of Page Display Objects 35a-35c defines the screen

views transmitted and displayed to end users. A Page object 35a cross references a User

Interface Object 37c which specifies which Page Display Object 35c and which agate

information (content and presentation) is appropriate for the current user. Page Data Objects

35b hold the agate or other data to be displayed to end users. Included are advertisements

objects themselves) which may be integrated into the agate data. Preferably advertisements are

positioned along the periphery (i.e., above, below, left or right) of the agate data, as defined by a

respective Page Display Object 35c. Accordingly, Page Data Objects 35b support Page Display

Objects 35c which outline the possible screen content and presentation formats in which agate

data advertisements are to be displayed (col 7, lines 23-37);

(23) Specifically, User Viewing History Object 37f records an item identification (either

agate or advertisement) and orientation of that item for each item displayed to (and hence

viewed by) the user in a session" (col 7, lines 5-10).

Also, Fig 3a. discloses that for the Page Display it is determined what placements in

terms of categories and content and advertisements need to be filled for a user, then the content

and advertising for those placements is stored in objects ('Page Data Objects hold the agate or

other data to be displayed to end users', see below) for display to the user. Hence, Gerace

discloses a marketing page element placed on the web page, providing storage for data items

having marketing content, wherein the data items are for displaying on the web page:

"(24)   Returning to FIG. 3a, the set of Page Display Objects 35a-35c defines the screen

views transmitted and displayed to end users. A Page object 35a cross references a User

Interface Object 37c which specifies which Page Display Object 35c and which agate

information (content and presentation) is appropriate for the current user. Page Data Objects

35b hold the agate or other data to be displayed to end users. Included are advertisements

(objects themselves) which may be integrated into the agate data. Preferably advertisements are

positioned along the periphery (i.e., above, below, left or right) of the agate data, as defined by a

respective Page Display Object 35c. Accordingly, Page Data Objects 35b support Page Display

Objects 35c which outline the possible screen content and presentation formats in which agate

data advertisements are to be displayed" (col 7, lines 23-36).

Hence, Gerace discloses the features of the Applicant's marketing page element as

disclosed in the Applicant's claims.

Also, please note in the prior rejection dated 4/1/2005 and in the rejection of the

independent claim above it is established that, "Gerace discloses that advertisements can be a

form of agate information. . .Therefore, the functionality in Gerace concerning agata data can

also apply to advertising data.

Applicant then states that Gerace does not disclose, continuing the Applicant's citation

above, other features such as,

"However, this passage in Gerace does not teach that data items to be displayed on the

web page are stored in a discrete element of the web page that is placed on the web page, but

instead that they are retrieved from an outside source."

Again, Applicant's claim 1 makes no statement utilizing the terms 'discrete element'.

Figure 2 and Figure 3a of Gerace and the citations and explanation above demonstrate Gerace's

disclosure of the features of claim 1. Also, the citation from Gerace above (Fig. 2, item 75, 'Ad

Module' and col 5, lines 15-25) discloses that sponsor submitted advertisements from a variety

of sponsors are stored in the Ad Module itself. Hence, the advertisements are taken directly from

the collection of advertisements in the Ad Module at time of selection and placed into the

Objects of the Page of Fig. 3a. Hence, the data items of Gerace need not be taken from an

outside source.

On page 20, Applicant states that Gerace does not disclose, "As such, the data items as

included in the claimed invention have marketing content and are for displaying on a web page.

Furthermore, the data items are stored in a marketing page element that is placed anywhere on

the web page."

Please see the above rejection of the independent claims above where detailed citations and explanations are made concerning the Gerace reference and the placement of marketing content on a web page. Also, please see the citations and explanation in the rejection of the independent claims above concerning the combination of Gerace and Culliss disclosing the placement of marketing content anywhere on a web page.

Also, Gerace's displaying advertising content on a web page is equivalent to displaying marketing content on a web page.

Please also note that the additional citations added below have also been added to the rejection above.

On page 21, Applicant states, "Applicants have amended the claimed inventions to expressly state that the data items correspond to a marketed item. A marketed item can comprise, for example, a product or a coupon. . .this feature of the claimed invention is clearly not shown or suggested by Gerace."

However, Gerace's advertisements are for a marketed item:

"(15) In accordance with another aspect of the present invention, there is a module (e.g., advertisement module) that records history of users viewing the advertisements. For each advertisement, the module records (i) number of times viewed by a user; (ii) number of times selected for further information by a user, and/or (iii) number of purchases initiated from display of the advertisement to a user" (col 2, lines 35-42).

An advertisement that results in a purchase is equivalent to presenting data items related to a marketed item such as a product or coupon.

On page 21, Applicant states, "Applicants have amended the claimed invention to

expressly state that the data items are selected using a marketing strategy for selecting the

marketed item. To this extent, the data items are selected based on a marketing strategy for

selecting the corresponding marketing item".

Please note that Applicant's addition of features concerning a marketing strategy in the

independent claims has been minimally defined. Hence, what constitutes a marketing strategy or

how a marketing strategy can be utilized is open to a broad interpretation.

Gerace discloses utilizing a marketing strategy for selecting the marketed item that is

displayed on a web page:

"(82) Based on these recorded details, program 31 constantly and automatically tailors

screen views (content and presentation) and advertisement selection (subject matter and

presentation) for the user (col 17, lines 4-10);

(14) The tracking and profiling member also records demographics of each

user. As a result, the data assembly is able to transmit advertisements for display to users based

on psychographic and demographic profiles of the user to provide targeted marketing (col 2,

lines 30-35);

(90) For example, a report comprises several defined elements, including overall success

of the advertisement, breakdown by requested demographic elements, comparison of target

market with control group, number of click through requested versus number achieved to date,

as well as the time remaining in an advertisement. Finally, program 31 completes a regression

analysis using data stored in Ad Package Objects 33b and User Objects 37, and suggests other

demographic groups which a sponsor might want to consider for a subsequent ad (col 18, line

64-col 19, line 6);

(97)   In order to achieve rapid and direct benefits from the detailed reporting of program

31, program 31 allows the sponsor to enter new advertising contracts on line. If a sponsor

recognizes that, for example, 25-35 year-old women tend to purchase frequently and respond to

their still, forest green colored advertisements most often, program 31 allows sponsors to place

that type of ad in front of the subject target market segment during a reporting cycle. Thus,

program 31 enables updating of the Sponsor and Ad Objects 33 during a reporting cycle to

accommodate the foregoing (col 20, lines 9-19);

[Claim] 6. Apparatus as claimed in claim 5 wherein the tracking and profiling member

further provides demographic information about a user; and for each advertisement, the data

assembly transmits the advertisement for display with agate information to users having a

psychographic profile and a demographic profile substantially matching the target profile of the

advertisement to provide targeted marketing (col 35, lines 14-20);

(98)   With respect to reporting, if the reports of program 31 show that customers respond

to still advertisements more often than moving ones, bright colors more often than darker ones,

graphics rather than text, large text rather than small, detailed text or square advertisements

rather than bar style ones, such is relayed to the sponsors/advertisers (col 20, lines 10-25).

(55)   Briefly, an Overview Report provides a review by ad package. The number

of hits and number of click throughs purchased and achieved are indicated among

the cost of the package and date specified by the ad package" (col 12, lines 62-69).

Hence, Gerace discloses that advertisements can be displayed to users, that advertisements can be utilized to incite purchases from users. Gerace further discloses that certain advertisements can be targeted to certain markets or groups of users and that certain advertisements can be displayed to users in certain ways in order to illicit more favorable responses, such as purchases, from a user. Therefore, Gerace discloses utilizing a marketing strategy for selecting the marketed item that is displayed on a web page.

Hence, the combination of Gerace and Culliss renders obvious the features of the Applicant's claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Arthur Duran
Patent Examiner
8/8/2005